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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,841	09/30/2003	Simon Chu	RPS920030112US2	4457
45503 7590 10/27/2008 DILLON & YUDELL LLP 8911 N. CAPITAL OF TEXAS HWY., SUITE 2110 AUSTIN, TX 78759				
EXAMINER NEWAY, SAMUEL G				
ART UNIT		PAPER NUMBER		
2626				
MAIL DATE		DELIVERY MODE		
10/27/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/674,841

Applicant(s)

CHU ET AL.

Examiner

Samuel G. Neway

Art Unit

2626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-8, 10-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10-17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is responsive to the RCE filed on 04 August 2008.
2. Claims 1 – 4, 6 – 8, 10 – 17, and 19 are pending and considered below.

Response to Amendment

3. The Double Patenting rejection over copending Application No. 10/675,614 is withdrawn in view of the Terminal Disclaimer filed 18 July 2008.

Response to Arguments

4. Applicant's arguments filed 12 June 2008 have been fully considered but they are not persuasive.

The amendments to claims 1 and 15 do not change the scope of the claims, the fact that the computer does not receive information derived from a GPS signal is still a necessary requirement for downloading the first software. Therefore, the 35 USC 112 rejections of the last final rejection still stand.

As for the arguments that Wall does not teach "requesting a second software if a physical of a client computer is not within an authorized location range for a first software from a first list of authorized location ranges", it is noted that Wall's limited access software, which is different from the full access software, reads on Applicant's second software. It would have been obvious to one with ordinary skill in the art at the time invention to use Kyotoku's method of checking a computer's location before downloading a software on Wall's limited access software.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1 – 4, 6 – 7, and 15 – 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification discloses downloading software depending on the location of a computer. The software is downloaded if the location is determined to be secure. The location is determined either by using GPS or from a local enterprise generated signal. In another embodiment, the specification also discloses downloading software when the computer does not detect a GPS signal ([0027]).

Claims 1 and 15 disclose determining the location of a computer (using, for example, a local transmitter, but not GPS) and downloading the software only if the location is secure and the computer does not receive, or get information derived from, a GPS. Nowhere in the specification is it recited that these two requirements (downloading only if the location is determined to be secure and only if the computer does not receive GPS) should or could occur together. As a matter of fact, the specification in [0027] states that when the computer does not receive a GPS signal, it

is assumed that the computer is in a secure location and thus software is downloaded. It would not be obvious from the specification to one with ordinary skill in the art to further verify the location of the computer by checking if it, in fact, is able to receive a GPS signal when the location has already been determined by other means.

Furthermore, from the specification, which states "lack of a GPS ... signal being detected by a client computer ... enables the loading of an application. Thus, an application may be constructed such that if the GPS receiver 122 does not detect a GPS signal, then it is presumed that the client computer 410 is in a secure location, and the application may be downloaded" ([0027]), it is not clear how the lack of GPS can be a necessary (only if) condition for downloading as in claims 1 and 15, as opposed to a sufficient (enables) one as the specification discloses.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8, 10 – 14, and 19 are rejected under 35 U.S.C. 103(a) as put forth in the Final Rejection mailed 18 April 2008.

Conclusion

9. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

/David R Hudspeth/

Supervisory Patent Examiner, Art Unit 2626